

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
IN ITS INSOLVENCY JURISDICTION
INSOLVENCY PETITION NO.130 of 2004

Surakanth Mehta .. Debtor

Exparte

Veljibhai Manshi Gada..Petitioning Creditor

Ms N.C.Solanki i/b Kiran Jain and Co. for
Petitioning Creditor

Mr S.K.Keswani for Debtor

CORAM:DR.D.Y.CHANDRACHUD, J.

1st February 2005

P.C.:-

. A decree has been passed as far back as on 20-11-2003 in Summary suit No.340 of 2004 in the amount of Rs.1,89,663/- with further interest at the rate of 12% p.a. on the principal amount of Rs.1,40,000/- from the date of the institution of the suit. An Insolvency Notice was taken out which is duly served. Admittedly no Motion has been taken out for setting aside the Insolvency Notice.

. There is no reply to the petition though time was

taken on 5-10-2004 and 7-12-2004. The learned Counsel appearing on behalf of the Judgment Debtor states across the Bar that a motion has been taken out for setting aside the decree passed in the Summary suit. He has no details, not even the number of Motion, the papers or the date of institution. Besides the fact that there is no reply to the Petition, the learned Counsel appearing on behalf of the Judgment Creditor states that no notice of motion for setting aside the ex parte decree has been served until till date. Counsel appearing on behalf of the Judgment Debtor is not in a position to inform the Court of even an approximate time schedule within which the decretal amount will be paid. Under the circumstances an order of adjudication order ought to be made. The petition is made absolute in terms of prayer clause (a).

(DR.D.Y.CHANDRCHUD, J.)